



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2167 OF 2023

1] Syed Husnuddin @ Syed Iqbal (Died Thr. Lr.s)

1-A] Afsha Begum W/o. Late Syed Husnuddin
Age-77 years, Occu. Household.

1-B] Syed Afsar S/o. Late Syed Husnuddin
Age-51 years, Occu.- Business.

1-C] Azeema Begum W/o. Mohd. Farhath Khan
Age-38 Years, Occu.- Household.

All R/o. House No.18-7-198/B/57,
Talab Katta, Hyderabad.

1-D] Nasreen Begum W/o. Mohd. Hussian
Age-52 Years, Occu- Household
R/o. House No. 5-6-634/7,
Nampally, Hyderabad.

1-E] Nasem Begum W/o. Mohd. Asif
Age-46 Years, Occu- Household
R/o. House No.18-7-25/441/B
Talab Katta, Hyderabad.

1-F] Faheem Begum W/o. Mohd. Hammed
Age-38 Years, Occu- Household
R/o. House No. 11-1-1204/1/55,
Nampally, Hyderabad.

1-G] Naeem Begum W/o. Mohd. Yousuf
Age-39 Years, Occu- Household

R/o. House No.2-3-647/A/145,
Amberpet, Hyderabad.

1-H] Enayat Begum W/o. Mohd. Azeem Ahmed
Age-41 years, Occu- Household
R/o. House No.22-4-57 Kotla Ali Jah,
Hyderabad.

1-I] Sameena Begum W/o. Syed Husnuddin
Age-33 Years, Occu- Household
R/o. House No.18-7-198/B/57,
Talab Katta, Hyderabad.

2] Syed Ameeruddin S/o. Syed Basheeruddin
Age-64 Years, Occu- Business,
R/o. House No. 18-11-80/C,
Barkas, Hyderabad.

3] Smt. Tahera Begum D/o. Syed Basheeruddin
Age-70 Years, Occu- Household
R/o. As above.

4] Syed Ruknuddin S/o. Syed Basheeruddin
Age-59 Years, Occu- Business,
R/o. As above.

All through GPA

Shaikh Mehmood S/o. Late Abdul Gani

Age-46 years, Occu. Business

R/o. 9-12-101, Beside Rahamaniya Masjid,
Amedhpura Colony, Nizamabad. (T.S.).

...PETITIONERS

VERSUS

- 1] **The State of Maharashtra**
Through Revenue Department,
Mantralaya, Mumbai
through the Secretary.
- 2] **The Additional Divisional Commissioner,**
Aurangabad, Division Aurangabad,
Tq. & Dist. Aurangabad.
- 3] **The Sub Divisional Officer, Partur,**
Tq. Partur, Dist. Jalna.
- 4] **The Sub Divisional Officer, Pathri,**
Tq. Pathri, Dist. Parbhani.
- 5] **The Tahsildar, Pathri,**
Tq. Pathri, Dist. Parbhani.
- 6] **The Tahsildar, Partur,**
Tq. Partur, Dist. Jalna.

...RESPONDENTS

Mr. A. S. Gandhi, Advocate for the Petitioners.

Mr. K. B. Jadhavar, AGP for Respondent Nos. 1 to 6 - State.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 08th APRIL 2025.
PRONOUNCED ON : 29th APRIL 2025.

ORDER :-

1. Heard Mr. Gandhi, the learned Advocate for the Petitioners and
Mr. Jadhavar, the learned AGP for Respondent Nos. 1 to 6 - State.

2. By consent of the parties, the petition is taken up for final disposal at the stage of admission.

3. A challenge in this petition is to an order dated 30th November 2022 passed by the learned Additional Divisional Commissioner-1, Aurangabad Division, Aurangabad in File No.2022/Appeal/Inam/CR-146, thereby refusing to grant the amount of pension to the petitioners. The Respondent Nos. 1 to 6 are the State authorities.

4. The petitioners, descendants of Syed Shah Gulam Ahmed Gilani, have approached this Court for getting amount of pension that is already lying with the Government as “Jagir Pension”.

5. The facts, in short, are that one Syed Shah Gulam Ahmed Gilani was Jahagirdar in Mustaid Pura Hyderabad known as “Khan-Kh-E-Jilani”. Being service Inamdar, he was granted Jahagir of village Niwali, Tq. Pathri Dist. Parbhani and village Fularwadi Tq. Partur Dist. Jalna by order dated 1st Ramzan 1255 Hijri. The succession certificate was issued in the name of Syed Shah Gesu-Daraz Hussaini @ Khaja Miya S/o. Syed

Shah Gulam Samdani and Syed Shah Ahmed Hussani S/o. Syed Shah Gulam Jeelani Mohammed Yahya Al-Hussani. Being successors, the income from the said village was shown in their names. After them, the succession was granted in the name of one, (i) Quadri (ii) Syed Shah Abdul (iii) Syed Shah Ziauddin (iv) Syed Hussainuddin (v) Syed Ahmeduddin (vi) Quadri Begum. After Quadri Begum, succession was granted in the name of Basheeruddin. Income of two villages, after death of Quadri Begum, was to go to Basheeruddin, who was succeeded by (i) Husnuddin (ii) Ameeroddin (iii) Tahira Begum (iv) Ruknuddin. The then Government of Hyderabad State was granting pension to the successors towards pension. Installment of pension were to be given for the years 1950-51 to 1953-54 in respect of Jagir pension to the predecessor in title of the petitioners.

6. In 1956, in view of Government Reorganization Act, both the villages came to be included in the State of Maharashtra. The State of Hyderabad issued a circular dated 14th September 1949 and transferred the Jagirs under the Hyderabad (Abolition of Jagirs) Regulation 1358

Fasli. The Jagir of the predecessor of the petitioners were also included in the said circular.

7. After reorganization of the State, the Hyderabad State transferred the amount to the account of State of Maharashtra. The Accountant General, Maharashtra State, Nagpur acknowledged the payment of sum of the Jagir by specific Commutations.

8. Now, it is the case of the petitioners that after the amount is transferred to the State of Maharashtra. The successors of the original Jagirs were entitled to receive the said amount. By communication dated 31st March 1958, the Accountant General approved the payment of pension granted through the learned Commissioner, Aurangabad. The learned Commissioner, Aurangabad informed to Revenue Department to make the payment to the concerned persons through him. The amount of Jagir of these two villages was kept in account No.641 (Khata No.641).

9. The petitioners, being successors, obtained succession certificate. After obtaining succession certificate, they made an Application No.1993/Atiyat/Kavi-22. The said application was allowed by order dated 25th August 2014. The petitioners were, thus, entitled to receive the amount. However, one Sayyed Shah Nurul Hasan Kadri Shutari filed an objection in respect of succession of the petitioners by challenging the order dated 25th August 2014 before the learned Additional Collector, Parbhani. The said objection application came to be rejected by order dated 30th March 2016. Though the said Sayyed Shah Nurul Hasan Kadri Shutari could not get the certificate, he still filed an application with the learned Commissioner, Aurangabad for getting pension from Khata No. 461. It is on that, the petitioners approached the learned Commissioner filing objection.

10. The proceeding was decided. The parties were required to come to this Court. This Court in Writ Petition No.7200 of 2018, remanded the matter back to the Commissioner for fresh decision. The learned Commissioner, by way of impugned order, rejected the application of the

Sayyed Shah Nurul Hasan Kadri Shutari, held that he is not entitled to receive the amount. However, at the same time, he did not grant the amount of pension even to the present petitioners. The petitioners are thus before this Court.

11. Mr. Gandhi, the learned Advocate for the petitioners, vehemently argued that, there is no dispute about the pension amount is lying in account No.461. The said amount is to be paid to the person/persons entitled to receive the said amount. It is only because of the objection by Sayyed Shah Nurul Hasan Kadri Shutari, the amount was not paid to these petitioners on technical ground. That after the application for receiving pension came to be rejected by the Deputy Commissioner, Aurangabad, the said order was not challenged. Even these petitioners have not made any prayer and held that the amount need not be disbursed. Now, there is virasat granted in favour of the petitioner and the amount ought to have been granted to them. He thus prays for allowing the writ petition by quashing and setting aside the impugned order.

12. Mr. Jadhavar, the learned AGP supports the impugned order. He submits that the petitioners could not prove their case before learned Commissioner. The learned Commissioner has rightly observed that after 1956, there is no pension paid to anybody and no any claim is made by the petitioners. He thus submits that the petition deserves to be dismissed.

13. After going through the submissions and the judgment and order, it is seen that, there is no dispute that the Jagir was given to Syed Shah Gulam Samdani. Then, the Government of Hyderabad had kept the amount in the account. After reorganization of States, the amount was transferred to the account of State of Maharashtra. From the fact narrated above, it is clear that, there was communication to give the amount to a person/persons entitled to receive the amount. The amount could not be paid only because there was no *virasat* granted in favour of anyone. Now, it is clear that, the petitioners have obtained *virasat* and, therefore, they are entitled to receive the amount. The claim of the petitioners is limited only to the amount which is already deposited and

lying in the account No.461.

14. Merely because, the party has not claim the amount since long, is no reason for the Government to withhold the amount. In the present case, there is no dispute about the entitlement and that the amount is lying in the account. Though objection was raised by Sayyed Shah Nurul Hasan Kadri Shutari, he could not prove that he is entitled to receive the amount. Once he failed to prove his entitlement, the amount naturally should go to the person/persons, who are entitled to receive the said amount. In the present case, it is shown that the petitioners are entitled to receive the amount. It is not the case that the pension is to be paid, even now, the pension is not continued, the question is only about the amount which is already deposited.

15. Considering the above submissions and the facts, this Court finds that a case is made out to allow the writ petition. Hence, the following order:

ORDER

(i) Writ petition stands allowed in terms of prayer clause (B).

- (ii) The impugned judgment and order dated 30th November 2022 passed by the learned Additional Divisional Commissioner-1 in File No.2022/Appeal/Inam/CR-146, are quashed and set aside.
- (iii) With this, Writ Petition stands disposed off.

[KISHORE C. SANT, J.]